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Spins of (Dis)Integration

What Might "Reformers" in Canada Learn from the "Social Dimension" of the European Union?

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This is a revised and extended version of the author's talk delivered at the Queen's University International Institute on Social Policy *"Canada in International Perspective '97"*, Kingston, August 26−29, 1997. The paper is an exercise (in Alain Noël's words) in "*consequentialist institutionalism*" as it focuses on the linkage between redistribution and certain modes of integration and makes strong assumptions about the power and the shadows of institutions. The organizers and participants of the Institute, especially Keith Banting, Thomas Courchene, Peter Leslie, and Harvey Lazar, were most helpful in making me see (some of) the special Canadian conditions. In addition I would like to thank Keith Banting, Peter Leslie and Alain Noël for critical, detailed and extremely helpful comments on the draft of this essay. I owe more to Catherine Jones−Finer's perseverance and especially her substantial help in revising this text than I can express in a footnote. Also, I would like to thank the Institute for Advanced Study Berlin and Bremen University for generous years of support, the GAAC (Bonn) for its project support, and especially Huri Ismanoglu (then Berlin) and Sven Jochem (CeS, Bremen) for their help with this text.

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Abstract

In the Canadian discussion, the EU model ("Social Europe") has inspired a range of proposals for restructuring Canada. The article gives an introduction to "where the social dimension and social policy are at" in the EU. Then the political relevance of the EU experience for Canada is explored whether this be for a Québécois independence perspective *or* for a Canadian interprovincial−compact as outlined in 1996 by Thomas Courchene. Finally, I shall conclude with some remarks on "globalization and the welfare state" − a powerfully related issue, wherein welfare states can turn out to be foundations for both opening up and thence ensuring the openness of western economies for "embedded liberalism" − as well as for "re−embedding liberalism" − as against being perceived purely as the inevitable victims of an unstoppable "march of [the forces of] globalization" (Thomas Courchene), as has been most often envisioned.

> "Perhaps the most pessimistic reading of effects of regionalization on transatlantic relations concerns the underlying sources of economic conflict between Europe and the United States. Rather than simply protectionism, conflict increasingly might center on 'unfair competition' and 'level playing fields' − terms defined less by any measurable barriers to market access than by presumed differences between two distinct capitalist political economies. (If one adds Japan, then the clash of systems involves at least three distinct models.) The European Union, in this view, represents more than a collection of coordinated policies or even a set of distinct institutions: it incorporates a distinct social and economic order, in contradistinction to 'North America'." (Kahler 1995: 41)

Introduction

Canada and the European Union have this much in common: they are both multi−tiered systems with a 'social identity problem'. Seen superficially they have arrived at this problem from quite opposite directions. Nevertheless the mere appearance of 'problem convergence' − or 'cross−over'? − could mean that both sides have something useful to learn from each other's experience. Indeed the very act of comparison can furnish food for thought (see on Canada: Orloff 1993; Borchert 1995).

Canada has a long, strong tradition of federal policy making, standard setting and financial underpinning in the key areas of old age, unemployment, health and social services provision (cf. Banting 1987). In the mean, lean world of today's re−globalized economy, it is precisely this 'umbrella structure' which is now under threat, domestically packaged and "framed" as "decentralization"[1]. Europe, by contrast, has a long strong tradition of competitive, possessive, national welfare state development, which has militated for decades against the European Union's non−elective policy−making bureaucracy being allowed any serious "classical" role in social policy formulation. Yet it is arguably this *lack* of sufficient capacity to act on behalf and in support of a 'Social Europe' which is at the heart of the EU's present difficulty − especially when the EURO[2] and Eastern European enlargement materialize.

Both of these multi−tiered systems, interestingly enough, have their longstanding, 'black sheep': the 'awkward customers' who can be so relied upon to protest on each and every relevant occasion, that other potential protesters may feel no need to do so; that indeed other members may come so to *rely* upon the predictability of the opposition that − for so long as and to the extent that rules of unanimity prevail − they can afford to portray themselves as thoroughly and unselfishly 'community−minded' at the

highest political level. Consciously or not, Quebec has long performed such a function for Canada,

[1] This seems to be the major label of the Canadian package. For a discussion of the scope of such revisions across most social policy fields see the focus issue of *Policy Options* 1996 with articles by Bickerton, Boychuk, Deber, Gibbins, Howse and Richards. See also Biggs (1996).

[2] On the EURO's consequences for national labor markets see the synthesis by Schelkle (1997) and for social policy the overview by Ruland (1998).

just as Britain, like it or not, has performed the equivalent function for the EU − a shadow which may haunt the U.K. government for some time to come. The extent to which either or both has served as a constructive force in so doing of course has to be a matter of opinion. Furthermore it is possible, as suggested later in this paper, that the most apposite comparison might be not between Quebec and the U.K. as self−appointed black sheep, but between Quebec/Canada and 'the Belgian disease' − that is, the decomposition of Belgium's state and society in the last decades − in relation to the EU.

This much said, I would first like to offer, in a nutshell, an introduction to "where the social dimension and social policy are at" in the EU. Then I would like to contribute to the discussion about the potential relevance of EU experience for Canada, whether this be for a Québécois independence perspective *or* for a Canadian interprovincial−compact as outlined by Thomas Courchene (1996).[3] Finally I shall conclude with some remarks on "globalization and the welfare state" − a powerfully related issue, wherein welfare states can turn out to be foundations for both opening up and thence ensuring the openness of western economies for "embedded liberalism" − as well as for "re−embedding liberalism" − as against being perceived purely as the inevitable victims of an unstoppable "march of [the forces of] globalization" (Courchene 1996:81), as has been most often envisioned. If this essay were to open up some of the big questions for a thorough discussion − even though it cannot provide ready made answers − it would have achieved a lot.

I. The State of European Integration in Social Policy

Accounts of European social policy generally offer a minimalist interpretation of European Union (EU) involvement. The sovereign nation state, so goes the argument, leaves little space for the EU to assume a role in social policy. The Union is regarded as a matter of 'market−building' only, leaving an exclusive, citizen−focused, national welfare state with its sovereignty formally untouched, though being endangered indirectly by growing economic interdependence. "Welfare states are national states." (de Swaan 1992:33; cf. also Lange 1992)

On the face of it, the European welfare state indeed looks national. There is no EU welfare law granting individual entitlements against Brussels; there is no social budget to back up such entitlements; there is no Brussels welfare bureaucracy to speak of.[4] 'Territorial sovereignty' in social policy, so conventional wisdom holds, is alive and well (for an overwiew cf. Collins 1975; Kenis 1991). Nevertheless Paul Pierson and I disagreed (Leibfried/Pierson 1995b, 1998b). The process of

[3] My view of the Canadian welfare state is informed by Keith Banting's work (1987ff.). Note the growth in European continental, especially German, interest in including Canada in a welfare state comparison (Borchert 1995) or in making it *the* case study (Eichenhofer 1984; Schiller 1994).

[4] When thinking about Canadian lessons this point should be kept in mind. The present Canadian discussion does not question the dominant federal role in providing the basic federal old age pensions, or the federal role in income redistribution through the personal income tax. (This consensus among federalists, however, does not extend to the Quebec indépendantistes.). There is no even vaguely similar role of this sort at the EC level.

European integration has eroded both the *sovereignty* (by which I mean legal authority) and *autonomy* (by which I mean *de facto* regulatory capacity) of member states in the realm of social policy. National welfare states remain the primary institutions of European social policy, but they do so in the context of an increasingly constraining multi−tiered polity.[5]

While the extensive barriers to EU action might have prevented any true federalization of European social policy, the dynamics of creating a single market have nonetheless made it increasingly difficult to exclude social issues from the EU’s agenda.[6] In short, the emergence of a multi−tiered structure is less the result of the welfare state−building ambitions of Eurocrats − as is often presumed in the discussion of "L’Europe social" − than it is a result of spillovers from the single market initiative. By ’spillovers’ I mean the process through which the completion of the internal market leads the EU to invade the domain of social policy (see initially Haas 1958/1968; Lindberg/Scheingold 1970). We should recall that the single market initiative was based on a de−regulatory agenda and assumed that initiatives to assure the ’free movement of goods, services, capital and labor’ could be insulated from social policy issues, which would remain under the full and sovereign control of member states. This was ever a dubious assumption, and it is worth noting that it runs directly contrary to the central tenets of political economy, which have laid precise emphasis on the embeddedness of economic action within dense networks of social and political institutions (cf. Hall 1986; North 1990). Already, there is significant evidence that the tidy separation of ’market issues’ from ’social issues’ may be unsustainable. Irrespective of the results of the struggles in ’high politics’ over social charters and treaty revisions, the movement towards market integration carries with it a gradual erosion of national welfare state autonomy and sovereignty, increasingly embedding national regimes in a complex, multi−tiered web of supra−national social policy.

This transformation of sovereign welfare states into parts of a multi−tiered system of social policy occurs mainly through three processes which have not always, hitherto, been accorded the separate status they deserve in discussion of the "social dimension":

- ’*Positive*’, activist reform results from social policy initiatives taken at the ’center’ by the Commission and Council, along with the European Court of Justice’s (ECJ’s) often expansive interpretations of what the Commission’s competences are and what those initiatives mean. This is about a new common policy being designed for all of Europe, as a matter of European law.

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[5] See Pierson/Leibfried (1995a, b) for a theory of multi−tierism − in French now Pierson/Leibfried (1998a, b); and also Pierson (1996); on a recent synthesis of the general integration debate see Caporaso (1998) and Stone Sweet/Sandholtz (1997).

[6] NAFTA’s single market dynamics might be *radically different* here (cf. Leary 1996). It provides no "institutional arena" − the missing *supranationalism* of simple Free Trade Agreements − in which such conflicts could have at least crystallized. Also, any such arena might be suspected by Canadians to function as a cul de sac, since it might amount to a straightforward imposition of the neoliberal welfare slant of the major US player on Canada. NAFTA does not address free labor mobility, only three of the four EU freedoms are in focus, and the one dearest to social policy is exempted. This also makes for quite a different integration dynamic. Probably the now (almost) defunct EFTA (Switzerland, Norway, Iceland etc. are still members), in its origin a *counter*model to the EC, would offer another quite relevant comparison with NAFTA.

- '*Negative*' reform occurs through the ECJ's imposition of *market compatibility requirements* (coordination regulation) that restrict, redefine, and also "homogenize"[7] the pre−existing social policies of member states. Here "hindrances" to a common market are removed from national policies.
- Finally, the process of European integration − through hightened "interdependence" − creates a range of *indirect pressures* that do not legally require but nonetheless strongly encourage adaptations of national welfare states.

Neither terms − "positive" in respect of conceiving social programs, or "negative" in respect of removing restrictions − are meant to express a valuation. Both are intended to be terms descriptive of a certain "scope", "mode" or *"spin"* of integration. The best analogy could be the legal distinction between "negative" (freedom from state intervention) and "positive constitutional rights" ('freedom from want' through detailed entitlements via à vis the state). Let me say a little more about each of these three processes in turn:

'Positive' social policy initiatives: Most people and most public reportage focuses on the EU's rather modest direct efforts to develop an *activist social policy*, which often run under the banner of "L'Europe social" − especially the Social Charter and the Maastricht Social Protocol − and would impact directly on sovereignty. Here the Commisson, and sometimes the "social partners" (Social Dialog), are seen as the key actors in building some sort of European welfare state. Along with others of like mind, Paul Pierson and I (cf. Pierson/Leibfried 1995a, b, 1998a, b) stress the formidable obstacles: institutions that make reform difficult, limited fiscal resources, jealous member state protection of 'state−building' resources, and an unfavorable distribution of power among interest groups. For all that the chances for such initatives have increased in the last decade, we also stress that this, until now, has *not* been the most important influence on national welfare states.

'Negative' social policy reform: Our own approach has been to focus much more on the less visible, incremental processes through which European integration has gradually transformed − and is still transforming − national welfare states into components of a unique 'multi−tiered' social policy framework. The development of what I call *market compatibility requirements* is central. By this I mean the legal challenges to those aspects of national welfare states that are seen to come into conflict with the single market's call for *unhindered labour mobility* and *open competition for services*[8].

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[7] It is often overlooked that coordination in the middle and long run leeds to standardization of categories (like "disability"). Once this has created an "equivalent" social policy language in the member states this is also likely to homogenize the policies themselves (contributing to convergence).

[8] It should be noted that the two other freedoms of the Rome Treaty are also of consequence for social policy: *Free capital mobility* has been extended to private insurance capital as of January 1, 1994. Since most welfare states resemble icebergs where private insurance is the submerged bottom the common private insurance market will be quite consequential for undoing the traditional national division of labor in the long run. (For a first exploration see Holzheu/Wolters 1995.) *Free mobility of goods* has its main effects in the "health and safety" area.

Here the European Court of Justice (ECJ) in Luxembourg plays a central role, and sovereignty has already been directly affected in many areas. In France the conflicts over the two Pinna cases in second half of the 80s[9], enforcing the requirements of "coordination" (may child allowances be withheld from Italian workers whose families have remained in Italy?), come to mind (Pollmann 1990, 1991; Rappenbusch 1986). Also in Germany negative integration has shaped welfare reform trajectories in blocking initiatives for minimum pension legislation in the 1980s and in shaping recent old age care insurance law (in 1994 care insurance was "framed" as an in−kind benefit − not as a monetary transfer − so as to territorialize the benefit on German soil; but on March 5,1998 care insurance was, nevertheless, in an *obiter dictum* declared "portable" by the ECJ *in Molenaar v. Allgemeine Ortskrankenkasse Baden−Württemberg* (C−160/96), evoking a huge outcry in Bonn − soon followed by additional critical ECJ judgements in other fields[10]).

Indirect pressures of integration: Finally the *de facto* rather than *de jure* pressures on national welfare regimes need to be considered, resulting from factors such as competitive demands for the adaptation of national economies to a single market and even a single currency area, en route to 1999 (for a critical case study − of Italy − see: Brunetta/Tronti 1995). Here market actors and national governments (via the Council) play a central role. Moreover we can here discern − looked at from the angle of national welfare states − effects on "autonomy" rather than on sovereignty. Typically we are dealing with the "spillovers" from other policies (such as EMU or tax harmonization) or with the effects of pure intra−market increases in interdependence (as in "social dumping" or intensified "regime competition").

Attempts at *'positive' initiatives* from the center have tended to provoke major and visible social conflicts within and between member states, such as have accompanied the EC from its beginnings. In 1957 the Rome Treaty was almost not passed in the French Parliament because the Social Clauses were considered to be too weak, thus leaving the well developed French welfare state too exposed to the possibility of German 'social dumping'.[11] Essentially the conflict was about whether France could make its "familistic welfare state" obligatory for all Member States. The conflict from the start was about whether there should be a "European welfare state", a separate world of truly European welfare capitalism. Meanwhile *'negative'* reform efforts might have been historically less visible but they are just as old. The principle of coordination was enshrined in 1958, in one of the earliest EU legislative acts (Regulation 2 and 3), and has been developed much further since then. For so long as negative

[9] *Pinna I*, ECR case 17 (1986); and *Pinna II*, ECR case 359 (1987).

[10] Similar outcries were provoked in Germany by *Kohll v. Union des caisses de maladie* (C 158/96) *and Decker v. Caisse de maladie des employés privés* (C−120−95), both of April 28, 1998, which enforced the freedom of services for the sick funds, allowing the insured to shop for dental services (*Kohll*) and for glasses (*Decker*) out of state. These cases arose out of the state of Luxembourg but they are seen in Germany as endangering the territorial, national "enclosure" of welfare state spending.

[11] Marjolin (1989:284−297) gives an eye−witness report on "The Battle of Paris". At the time − before Germany's 1957 pension reform etc. − France saw itself in the vanguard of "l'Etat Providence", and Germany was seen as trailing.

integration was about checking the small nuts and bolts of each member states' running welfare machinery for compatability with a Single Market − e.g. from what sorts of benefits might non−national residents be excluded? which benefits may be restricted to receipt in the national territory? how might pension claims from different countries be cumulated? if more than one country is involved who determines "disability" and its levels? − this amounted to continuous and cumulative work for legal experts and the courts, routinizing integration. However, the 'negative *liberalization'* of services dates only from the mid−1980s onwards, as an outcome of the 1986 Single European Act. Meanwhile *'indirect pressures'*, the third level distinguished, are by their nature of yet more recent vintage, since such pressures could only build up as integration and thus "interdependence" intensified on the ground, as they still do.

It is worth noting against the above background that, within the EU, the *free movement of labor* remains in practice the least developed of the four freedoms guaranteed in the EC Treaties of 1957: these being the 'free movement of goods, services, capital and labor'. First came the implementation of the freedom of trade (1960s−1980s), then capital (1980s[12]), and then services (1980s and 1990s). Thus, in contrast to Canada, where the labor market is relatively integrated[13], the EC has been characterized in this respect by a pattern of "*limping* integration" (Leibfried 1999). This limping has been partly the product of legal limitations − for instance, unemployment insurance benefits are exempted from the EC portability regime, and there is no transnational wage barganing. For the most part, however, it is due to a defacto "cultural" immobility on the part of the labor force itself, both within and between member states, perforated only by the higher mobility of the EU−"elite" (professionals, managers), on the one hand, and reinforced nationally by controlled[14] third country (lower class) immigration, on the other.

Finally I should make amends for the non−mention of *subsidiarity* in the foregoing account. Subsidiarity relates to a rather vague clause in the 1992 Maastricht Treaty, which has not yet been applied in any critical area and which leaves a lot of escape hatches. So far it has acquired little operational meaning in the cause of decentralization (no ECJ cases as yet). Indeed, the principle might even work in favor of centralization; given that, in line with catholic social teaching, the meaning of "subsidarity" in many national European cultures is not tied to disabling government at any level, be it higher or not. This was only how it was portrayed in the Maastricht Treaty (mandating, as it were, 'passivity') − and this was mainly conveyed to US and Canadian audiences via the perspectives of one party to the conflict, the U.K. (As already suggested, the U.K. has played something of a Quebec−type role in the EU.) In many continental cultures subsidiarity means that

[12] Though one should note that free capital movement was realized only in the 1990s for *private insurance* capital.

[13] Though the Canadian labour market is indeed quite integrated, in the sense that interprovincial migra−tion/mobility is high, some barriers (for example the mutual recognition of professional qualifications) remain, even ones that would be qualified as infringements of the EC treaties, would they occur in Europe.

[14] Since control is national and each nation has its most favored historical "immigration mix" this already precludes a really integrated EC−labour market as Garth (1986) pointed out in his seminal article. On the structure of these national labor markets cf. the comparative study by Schmidt (1996).

the more inclusive ("larger") unit has to do everything possible to ensure that the less inclusive ("smaller") social or political unit is able to fullfill its role properly. Therefore subsidiarity is construed as en *enabling* norm, mandating active support by the higher for the lower unit. It is surely going to be difficult to employ such an ideology of *en*abling government as a strategy for *dis*abling government at the level of the EU.

II. Some Trajectories, Drawn from EU Experience, of Relevance to Canada

In the Canadian discussion the EU model has inspired two different types of proposals for restructuring Canada politically, economically, and socially: a version advanced by Quebec indépendantistes, and a "social union" variant (notably proposed by Courchene 1996, but currently being advanced by nine provinces, the indépendantiste government of Quebec dissenting):

- the *indépendantiste version* proposes Quebec’s withdrawal from the Canadian federation, giving the new (sovereign) Quebec full constitutional powers and exclusive control of the tax system, and creating a new political structure controlled by its constituent states (Canada’s successor−states, presumably two but conceivably−if other provinces followed Quebec’s lead−several); this variant is explored under II A;
- the *social union variant* proposes extensive fiscal devolution to provincial governments, unimpaired federal economic powers, total provincial control of health, education, and most income security programs (except old age pensions), and the formulation/enforcement of shared interprovincial norms in social policy; this version is discussed under II B.

A. Reversing the Founding Process? A Québécois ("Sovereignist"/"Separatist") Perspective

The EU was founded right after WW II as part of a process of transcending nation states, of giving nation states a new lease on life in a time when most relevant problems − be they economic or otherwise − had moved beyond the the scope of nation states (see Kaelble 1995; Milward 1997).[15] This was a process to which France and Germany fully awoke only in the 1980s. Smaller states like the Benelux countries had already realized this much earlier in the 1950s and 60s. In the context of Canada, therefore, might it be possible to *use the EU model in reverse* as Quebec might wish: i.e. to in fact "dissolve this nation state"[16] into two or more new sovereign components and then recombine it, EU− fashion, as a *new* Canadian Union? At least four problems with such an approach meet the eye[17]:

[15] It should be remembered that the first, narrowly failed attempt at European integration − the European Defense Community − was about supranationalization in the heartland of sovereignty: Defense.

[16] The Quebec indépendantistes, though, never acknowledged Canada as a nation state that could now be dissolved. They see Canada as binational, or with aboriginal peoples, as trinational.

[17] I try to focus on points which are not in the foreground of Peter Leslie’s (1995) study. On the whole I would agree with his summary (70ff.), with some amendments: Whether Quebec would have less or more

Matching the Scope of the State to the Scope of the Market: In Europe the northern European states which initiated the union − France, Germany, the Benelux countries and Italy[18] − had historically been economically mutually dependent upon one another and they were returning to that pattern of interdependence speedily after WW II. Hence, by combining to form a "common political, legal and administrative structure" capable of opening and integrating the market, they could actually achieve a higher level of autonomy − a higher capacity to control and effectively regulate economic processes − than they had before. But for Canada this logic would not seem to apply, since the trade flows which have developed in recent decades − and look set to continue − have been basically North−South, not East−West.[19] Thus a Canadian version of the EU would swim not with but *against* the stream of economic interdependence. As such it could serve to weaken the common historical bonds which at present still obtain, notwithstanding all the animosities of this 'old marriage'.[20] In the case of Canada, it would seem that only a stronger move to *compensatory* integration at the NAFTA level could bring matters closer to the EU analogy. NAFTA, however, is locked into a Free Trade Zone − an EFTA−like − approach and very unlikely to move up to higher patterns of integration (cf. Leary 1996). Furthermore, even if it were to do so, it is not very likely at that level that NAFTA would let itself be informed by the substance of the Canadian social compact. Though the Canadian reform discussion is drawing very much on European integration − the non−match of scope might indicate that one has barked up the wrong tree when looking mainly at European integration.[21]

Rescuing the Nation State? The EU is seen by most Europeans as a step beyond the nation state, of regaining autonomy over (or at least some influence on) economic and social processes as these have been growing more interdependent, on a transnational, European or OECD−wide scale. Alan Milward (1992) called this "the European rescue of the nation state" through integration. This is an opposite vision of 'rescue' and 'recreation' from that being paraded by Quebec. For Quebec,

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control over its economy under a Maastricht model is a bit dependent on whether and how EMU flies. "Maastricht for two" is, as Leslie suggests, an impossible concept − the continental countries have always said so to the U.K. (which nevertheless in some cases and for some time tried to practice something close to that model − and not without effect). On problems of asymmetry see also Leslie's more recent work (1998, 1996). On a counter−perspective from Quebec see especially Noël (1998b).

[18] Italy, *geographically* speaking, is surely not part of *northern* Europe. But, northern Italy, which has been the continous forcing mechanism for Italy's integration into the Common and then Single Market (for goods, capital and services), always emulated the models of northern Europe and has distanced itself from Southern Italy also in this way. Thus, I include "Italy" here as co−initiating European Integration in its northern European trajectory.

[19] Interestingly enough some recent economic analyses have pointed to an *increase* in East−West trade in Canada due to *NAFTA*. The only province with more interprovincial trade than international trade (mainly with the US) is Prince Edward Island (see Courchene/Telmer 1998). Courchene and Telmer see the North−South trade trend as growing, accelerating, and inexorable.

[20] See Lipset (1990, 1991) for comment on the contrasts with the US.

[21] The true European analogue for post−secession Canada might, therefore, not be the EU, but the EFTA, which had no central institutions with any power, and all of whose members were more interested in EU markets than in each others'. The result was that the EC first fragmented the EFTA, then absorbed most of its parts. The US has the capacity to do the same for Canada, if it weakens politically according to the sovereignty−association model; NAFTA could be the instrument for this. This is argued in Leslie (1994, 1998).

then, sovereignty would actually decrease autonomy: Whilst interdependence in the world market grows, the capacity for national governance is diminished. Growing impotence would, sooner or later, make the neoliberal inversion of governance − the *withdrawal* from responsibilities hitherto taken for granted − the preferred mode for Quebec authorities anxious to side−step the implications of their loss of control over such a small unit.[22]

The Lesson of the Belgian Disease? The most appropriate Canadian/Quebec/NAFTA[23] analogy capable of being drawn from the EU could be *the slow decomposition of the Belgian state*[24], in its progressive devolution from a unitary to a dualized federal to finally an at least double state (Fitzmaurice 1996). In this case, however, the pre−existing EU serves as a quasi−safety−net for the unfolding of the Belgian debacle. Due to the supranational character of the EU and to its own constitutional embeddedness (EC laws bind member states and derogate national law) the two successor states would automatically be members of the EU; whereas in the case of pure intergovernmental Free Trade Treaties − such as NAFTA − such automatism is not the rule. Thus Quebec, and all other successor states, if Canada breaks into more than two parts and ceases to exist as signatory power, would have to negotiate each their own new membership − and all would be in a position where the sum of the parts would be substantially weaker vis a vis the US than the whole of Canada ever was. In the case of Belgium, all the EC regional programs (e.g. Structural Funds and Agriculture) which have administrative ties below the level of the former central state, could go on working as before.[25] Furthermore, it would seem at the moment that the two or three new Belgian actors would for quite some time exercise radically less influence individually than the old compact Belgian state had been able to do. The decomposition of the Belgian state will probably place too much responsibility on the EU in any case: a responsibility which it is not built to handle, given that the entire history of the Union has presupposed the continuance of governable nation states, not least in respect of *the EU's own capital city*.[26]

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[22] Also, NAFTA itself would lead to diminishing sovereignty in case of Quebec independence: Some of the restrictions inherent in NAFTA apply only to national, i.e. central governments, and not to regional (provincial or state) governments. Both Ottawa and Washington, DC wanted to avoid a showdown with their sub−state governments over issues such as public procurement policies. If Quebec were to become sovereign and would be admitted to NAFTA then, it would face these additional restrictions as a *national government*. Francophone public policies, though, would seem especially relevant for preserving its identity. This looks pretty much like a catch 22 situation.

[23] Both Belgium and Quebec belong to the earliest promoters of Free Trade in their respective region. While Quebec seems to have pursued this course with independence in mind, the split up of Belgium − and some supportive EC role − was in no way a consideration in the Belgium of the mid−1950s; these were independent later developments.

[24] One might also think about Spain and Catalonia. But Belgium seems a case unto its own, because the split of sovereignty is imminent and seems irreversible.

[25] The EU case, at least legally, has even stronger messages: The Constititution (the Treaties) do not provide for an "exit" option. In *legal opinion*, therefore, unilateral exit is impossible. Naturally an "exit" agreed to unanimously is possible since that would amount to an ad hoc amendment to the Constitution with the proper quorum.

[26] Note that the typical discussion about growing substate "regionalism" is about changes of emphasis within "*intra*−state" divisions of labor. Belgium represents the far out, single case where statehood − the foundation of the EC − is itself imploding.

***Asymmetrical integration or "variable geometry"*:** Since the 1990s there has been a new spin to the discussion about European integration. Up until this point, integration was thought of as a uniform movement for all, i.e. as steps that could be expressed in a uniform and general law − with some "speed limits" for new members, who were given a few years to adapt to the *acquis communautaire*. But with the Social Protocol in Maastricht and the EMU, asymmetrical perspectives have appeared on the formalized, legal horizon. Eleven countries secured qualified majority voting, including in respect of broader social policy competences. The UK stayed "out and about", preferring to be able to meddle independently of whether it wished to be bound by any results. EMU will take place for a subset of 11 countries first. Theoretically, the institutional vision of such asymmetries is "time limited": Sooner or later all countries should and will join, as indeed Blair now has for Britain in the case of the Social Protocol in the 1997 Amsterdam Treaty. Nevertheless such "time asymmetries" may turn out in practice to rest on socio−political differences which never wear out, thus turning into permanent "substantive asymmetries".

I have the feeling that Canada is at a comparable developmental *threshold*: Interprovincial compacts are still only thought normal if all ten sign; "special status" for Quebec is still thought awkward because it opens a window to enduring substantive asymmetries. To be sure, such asymmetries seem to be part of the Canadian federation already. The territories − Yukon and Northwest Territory − already have a special non−provincial status; and Quebec always is seen to take advantage of exceptions made exclusively for it by contrast with Canada's other nine provinces; take the case of contributory pensions, Quebec residents rely on the separate Quebec Pension Plan which is administered by the Quebec government, whereas residents of the other nine provinces rely on the Canada Pension Plan which is administered by the federal government. Yet it seems that the constitutional formalization of these exceptions has marked a threshold in the political discussion.

It may be that the EU, in turn, will soon have to face this problem in a more radical fashion: Eastern European enlargement will not just be a matter of redesigning the Brussels bureaucracy and voting systems; it will also throw open the question of asymmetrical development in a more expansive and enduring way than ever before − and it might open some cracks in culturally encapsulated European labour markets[27].

B. A Pure Interstate Compact: EC Intergovernmentalism as a Motor of Integration?

Another version, as I understand the Canadian discussion (Courchene 1996; ACCESS 1996; Boothe/Hermanutz 1997), relates to using the EU as an example for the possibility of reconstituting a Canadian "Social Union" through an intergovernmental compact of all the Canadian provinces, bypassing the federal government. Such an intergovernmental compact, considered in the light of EU

[27] These cracks loom especially ominous in Germany, as it is − together with Austria − *the* EC border country to East Europe.

experience, would certainly have (again) four problems to contend with.

***Enforcement*:** All forward moves in European integration have depended not only on an intergovernmental compact (and in some way on unanimity), but also on a silently working, routine, culturally deeply−embedded, and strong enforcing mechanism. In the EU case that mechanism has been a strong European Court of Justice (ECJ), grounded in a common continental[28] legal culture (based on Napoleonic Code approaches and a common Roman law past) and linked with strong national courts which have come to defer to the ECJ (cf. as recent overviews Stone Sweet/Brunell 1998, 1997). In social policy alone the ECJ has decided more than 300 cases in the last decades, quite a few of them with major impacts. Witness the controversial 1990s *Barber* case[29] which mandated gender equality for Britain's (and indirectly for other Member States') public pension system; or the mid 1980s *Pinna* cases (above, p. 8); or some recent ECJ decisions which open a monopolized public provision of services (like employment services in the German UI scheme) to private competition.[30]

But, what would be the centripetal controlling power in Canada?[31] Could a new formed "Pan−Canadian Court of Justice" play a role similar to the ECJ? Isn't the orientation of the Supreme Court in Canada[32] to individual basic rights too recent and too much focused on "negative" (liberal constitutional) rights rather than on "security rights"[33]? Isn't in general the (anti−statist, anti−code, pro possessive individualism) anglophone legal tradition also too strong to allow reliance on Court enforcement of principles of "redistribution"? Would or could such a mechanism be deeply embedded culturally − more deeply than the present Canadian union? − and would it thus be stable?

[28] It is important to note that the U.K. deviates substantially also in its legal culture, though it also has some Roman law roots (see Ogus 1990; Dyson 1980).

[29] *Barber v. Guardian Royal Exchange Assurance Group*, ECR Case C−262/88 (1990); cf. Whiteford (1995) and Moore (1995).

[30] Talking about "integration through law" (a several volume EUI study in the 1980s) catches a major characteristic of why and how European integration became possible (and Joseph Weiler's past and current legal work in the USA makes much of that message accessible in North America, see, for example, Weiler 1997).

[31] This lack of reach is illustrated by the Agreement on Internal Trade (AIT), executed as of July 18, 1994, which seems to represent *the* Canadian approach to conflict resolution (cf. Trebilcock/Schwanen 1995; Schwanen 1996; Brown et al. 1992): The AIT is an intergovernmental agreement that is supposed to decrease the barriers to inter−provindial trade, but the enforcement mechanism is limited to dispute resolution procedures modelled on international trade agreements such as WTO. There is no higher controlling authority, because the federal government cannot give orders to the provinces in their areas of jurisdiction. And the agreement is drafted so as not to be justiciable in the courts. As a result there was no way that the other governments could stop British Columbia when it chose not to opt into the most recent agreement on government procurement policies. B.C. was able to force a national company to build a separate plant in B.C. to manufacture the cars for a new urban transit system that it was installing in Vancouver. It was the AIT's purpose to stop such economically irrational behavior.

[32] The Supreme Court of Canada is not specifically a constitutional court, or a court to rule on federalism issues and individual rights; rather, it is an omnibus (highest) court dealing as well with criminal and civil cases. Decisions by provincial courts of appeal may be further appealed to the Supreme Court of Canada, whether there is a constitutional aspect to the case or not.

[33] A (Constitutional) Charter of Social Rights would have tested that strength or weakness of the Canadian court system and was discussed in Canada.

The Scope for Packaging: In Europe all "qualitative leaps" in social policy integration have been part of a package deal. Steps towards a Social Europe were side payments linked with some other major integrative effort[34]: "You will get the currency union (EMU), if you give us more regional redistribution (Cohesion Fund) and a Social Charter", for example − the Maastricht deal of 1992. The pure perfection of sectoral policy as such − the 'normal' policy approach − would not have lead to a higher level of integration. Yet what could the package deal be in Canada? Can you construct any such deal if the other parties concerned are unwilling to achieve a higher level of integration in *other* respects (quite in contrast to EC economic integration and finally to the currency union in the EU)? How do you make a common standard stick in just one area − especially if it is, as with social policy, the one most likely to come under economic, fiscal and compliance duress?

"Dense Fiscal Federalism": In Europe at the level of the nation state, many welfare state programs work on a background of extensive "(general) revenue sharing".[35] I.e. they could not work if "every tub had to float on its own bottom". These notions have already been extended, albeit in a somewhat disguised fashion, to the EU level, mainly through the growth of the Structural Funds in the last two decades (Anderson 1995; see also Carrubba 1997) − and redistribution as a motor of EU finance reform has become quite explicit in the 1998 Southern European, Spanish−led counterpoise to German plans to trim the latter's future contributions to the EU. Furthermore, some see a clear progression to explicit European general revenue sharing, combined with the enunciation of some common principles for a Social Europe (albeit not to a European welfare state of any sort), as the road to the future. By contrast, such a north−south (or center−periphery) 'anchorage' of revenue sharing would seem to be quite absent from Canada's discussion of its future.[36]

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[34] This turns Michael Lusztig's (1997) argument on its head as Europe would be a case where "Free Trade" was the primary goal, and social policy a secondary one. But one could argue whether "free trade" in Europe was just a front for other political goals: binding Germany into a European edifice; uniting vis à vis the Soviet bloc etc.

[35] Revenue sharing occurs through the agency of the federal government, in the sense that a portion of federal tax revenues − in total, about 4 per cent of Canada's GDP − are transferred to provincial governments. Redistribution is horizontal (between regions or provinces) as well as vertical. On this, see notes 36 and 37.

[36] This seems so even though the the principle of fiscal equalization is enshrined in the Constitution Act, 1982; under Section 36(2) of this Act, "Parliament and the government of Canada are committed to the principle of making equalization payments to ensure that provincial governments have sufficient revenues to provide reasonably comparable levels of public services at reasonably comparable levels of taxation." What is at issue is the extent to which such equalization payments will be supplemented by additional transfers to provincial governments for specific purposes (e.g. health care), subject to the provinces' adhering to certain principles or standards.

Indeed, to put it more strongly, talk − and the practice[37] − of the undoing of existing patterns of revenue sharing in East−West Canadian terms has gone hand in hand with discussion about an "interprovincial compact". These trends strike me as counter−purposive and not at all reinforcing of one another. A compact designed solely to function as a brake, would seem literally a non−starter.

***Breaching Unanimity*:** At the level of the European Union since the mid−1980s, the dynamics have developed around the "(qualified) majority vote". In practice, this means most Member States are counting on some of the bigger ones (e.g., Germany, France and Spain) to discover and strike a basic bargain that all can live with. In such cases the call for unanimity has been suspended, especially the closer one gets to the central economic issues of the European common market proper. Whereas in 'social policy proper' unanimity still predominates; albeit with its progress being dependent on the progress of the big economic integration issues. The work of the Intergovernmental Conference in 1996 was mainly concerned with restructuring the terms of "representation", since the move from 15 to 20 Member States was seen as identical with the need for a radical shift towards more efficient governance: more room for majority voting; reduced Member States "representation" at the Commission level; etc. But how are the Canadian states/provinces to bring themselves to give up their veto powers in the interests of creating a working intergovernmental Social Union for the benefit of the average citizen?

An interprovincial compact in Canada would, in the end, seem to run aground because the orientations of Quebec and the nine other provinces are *different in quality*. It is quite possible that the other nine provinces could agree on a very general compact with decision rules short of unanimity. In the end, though, this is not likely to hold. But at least the nine provinces start with symbolic assurances that the preservation of a pan−Canadian conception of social policy is important, and that they can be the joint guarantors of pan−Canadianism. However, this is not the case with Quebec, which rejects pan−Canadian social programs in principle. As a result, it is even more doubtful that Quebec would agree to participate at all. Having fought off federal controls over provincial social programs, it is hard to see why it would agree to be constrained by an interprovincial compact in which it could easily be outvoted.

One indication for this is the current debate in Canada over the social union: The Nine provinces are currently advancing a proposal for a federal−provincial compact with voting rules to govern new

[37] In Canada, federal transfers to provincial governments in support of social spending have been severely curtailed since the mid−1980s, and especially after 1995. Federal expenditures for regional development have been similarly reduced. There is no comprehensive system for sharing the revenues from major taxes such as the income tax (provinces set their own income tax rates, and the money is collected−except in Quebec−by the federal government). However, the federal government does make equalization payments to the governments of the less−wealthy provinces, and these are essential to enable all provinces to finance comparable levels of public services, without forcing the poorer ones to resort to especially high levels of taxation. It should be noted that equalization payments are not linked specifically to the welfare state; the money can be spent on social programs, but also on building roads or on anything else. Overall, through a combination of federal grants to provincial governments, through the federal tax system, and through federal transfer payments to individuals and other federal spending, the Canadian federation is highly redistributive interregionally.

federal initiatives in social policy. Obviously, there is a major advantage for the provinces in controlling the ability of the federal government to launch new social initiatives unilaterrally − as it did in the 1998 budget. However, Quebec has boycotted this process. It argues that to set up a joint decision process to govern federal interventions is to legitimate a federal role in social policy, which Quebec wants to end entirely

III. *Globalization* and Rebuilding the Frameworks of the Welfare States

I would like to end by showing how Europe today can already drastically improve integration by swimming with the economic integration stream − while Canada would have to integrate by swimming against that stream − or else by creating an alternative stream in the first place. Finally, I shall focus on the relationship between "welfare state" and "globalization": Are these just two sides of one coin, of "embedded liberalism"? If so, strategies for "re−embedding" might be called for, rather than strategies for further neoliberal *dis*−embedding.

***Swimming with the stream*:** Europe's "competitive advantage" in more interdependent world markets would seem (with the exception, maybe, of the UK) to rest not on outbidding the US in its neoliberal, "distrust society" mode, but on perfecting its own corporatist system, its "moral economy" of different versions of a "trust society": by combining increased flexibility in education and the labor market with the consolidation of its continental welfare state tradition. (David Soskice's work on labor relations − 1990, 1991 etc. − takes that direction, using the model of "Rhenish capitalism" as his key example; see also Allmendinger/Hinz 1998.) Europe can afford to go in this direction because its pan−European dependence on non−European exports or imports is only a few percentage points higher than that of the US. Most of the "dependence" is *intra*−European; which the EU as a supranational mode of governance puts in any case within manageable reach. Canada would need to be thinking about radically redirecting its trade away from the U.S. [38] and/or lessening its dependence on foreign trade altogether, thus increasing interprovincial (East−West) flows relative to international (North−South) flows, in order to create the material base for such a strategy, long term.[39] This might seem especially worthwhile in respect of those future industries for the "service society" which are more research and education based. Indeed, it seems especially ironic that a country with such a comparative cost and social integration advantage vis à vis the USA, not least in respect of its public health insurance, could conceivably let itself be dragged into much more expensive, inequitable and

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[38] What seems curious to an outsider is: Economically Quebec is one of the provinces *least* involved in North−South trade streams (according to recent numbers, tiny Prince Edward Island is less so) and *most* tied to the Canadian market, especially to the Ontario one, but it is at the same time the state most interested in dissolving the present Canadian union. In contrast the subsequent centrifugal tendencies of the two Western States (B.C. and Alberta) and more recently of Ontario swim with the development of the trade stream (cf. also Courchene/Telmer 1998). The cultural and political issues would seem to be completely divorced from the economic ones, at least for about half of the Quebec population and about half of its elite.

[39] In the 1970s such a discussion took place in Canada. Today it seems to be totally absent (though cf. above, Note 18 and 19).

’disintegrative’ social arragements.

***Standing "Globalization and the Welfare State" on its head*:** The globalization discussion in Canada − as elsewhere − often proceeds on the premise that it is the "globalized forces" *out there*[40] which are undoing "the welfare state" *in here*. Rather we should note that globalization and the welfare state came about as two sides of the same coin (see Rieger/Leibfried 1998) minted in the two decades after WW II. Both are part of the OECD−wide compact of "embedded liberalism" in which the development of national welfare states assured the opening of these western economies and their societies for rebuilding a world market (cf. Ruggie 1995; Gilpin 1987 etc.; now see Garrett 1998). Or in Dani Rodrik’s words:

> "Societies that expose themselves to greater amounts of external risk demand (and receive) a larger government role as shelter from the vicissitudes of global markets. In the context of the advanced industrial economies specifically, this translates into more generous social programs. Hence the conclusion that the social welfare state is the flip side of the open economy." (1997a:53)

This symbiotic development ("elective affinity") leads to the counter question: Might not the undoing of welfare states also involve the undoing of the integration necessary to uphold world markets, and feed a return to "protectionism"? If the welfare state is reversable[41] it might not be the only integration process to revert. To put the same point more positively: If we are to intensify global interdependence, compensatory mechanisms for ensuring national social security − "domestic buffers" or "forward adaptive capacities" − will also have to be more fully developed.[42] Certainly they should not be allowed to atrophy any further than they have. "Free trade among countries with very different domestic practices requires either a willingness to countenance the erosion of domestic structures or the acceptance of a certain degree of harmonization (convergence)." (Rodrik 1997a:37; 1997b) So, perhaps Canada should be looking for partners outside the North American sphere to force a level of convergence more in conformity with its own tradition of "embedded individualism" as it is being confronted with Miles Kahler’s stark choices in political economy (see *motto*)?

I close with a quotation from the German political scientist, Fritz W. Scharpf, well versed in issues of European integration, the welfare state and − increasingly − "globalization" (cf. last Scharpf 1997a):

> The policy−making capacities of the Union have not been strengthened nearly as much as capabilities at the level of member states have declined (1994:220).

So maybe Europe is in need of its own "New Deal" to fill this gap? After all, the New Deal was both

[40] In Canada, though, one often gets the peculiar impression as if "out there" were just a metaphorical expression for "US".

[41] I am not referring to necessary *reforms* of welfare state programs but to *reversing a characteristic trait of the modern western democratic state.*

[42] On the state of these debates in NAFTA, GATT, WTO and ILO see Leary (1996). These debates are focused on "worker’s rights".

a procedural and a policy revolution in its time. Maybe the EU really needs to take a great leap forward, whereby the Union acquires the strength necessary to manage increased European interdependence − i.e. European "interstate commerce" − in a socially responsible way. Such a leap would have to take Europe far beyond mere monetary union and imply a full economic and fiscal union (cf. Wallace/Young 1996:128). On the social policy side, Europe would not turn into a Brussels welfare state − neither of the *Bismarck* nor *Beveridge* (nor *Thatcher*) variety − but maybe into a *"reinsurance tier"*, safeguarding a modicum of wellbeing through common European standards and reliable EC fiscal back−ups.[43] Only thus might the European Union escape being further locked into its present model of the "hollow core": a pattern of prolonging its "dependence" on the slowest, most reserved member nation state, and of thereby remaining locked into a neoliberal, mostly deregulatory development perspective. In such a way "globalization" could lose much of its threat; *intra*−Union "interdependence" could become more manageable at the Union−level; and *extra*−Union "interdependence" (vis à vis Japan and the USA) could shrink to more 'balanced' proportions[44] − capable of being coped with much more adequately, in any case, by one powerful European actor than by 15, soon likely to be 20, smaller players each proceeding in their own way.

But how is such an 'upgrading of integration' even to be conceived in the case of Canada?

[43] The European role here is modeled somewhat after international private reinsurance. National welfare states will need backups, in Unemployment Insurance, for example, rather sooner than later as the Euro comes. For a short exploration see Leibfried (1997). Peter Leslie has pointed out that a continuous involvement of the EC in national welfare state issues might well go beyond the limits of the "reinsurance" analogy.

[44] According to Andrea Boltho (1996) exports in terms of real GNP for the EU as a whole amounted to 10.1% in 1979/80 as against 7.7.% for the USA and 11.2% for Japan. If one were to look, for example, at Germany alone its export dependency is much higher − but most of its exports go to Member States of the EU.

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